

INSPECTOR GENERAL

78-078

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MEMORANDUM FOR: Legislative Counsel

FROM : John H. Waller
Inspector General

SUBJECT : Amendments to FOIA

REFERENCE : OLC 77-5748, 30 December 1977

1. In our study last year of the public release of information, we came to two conclusions which bear directly on your question of whether or not FOIA has had a negative or harmful impact on Agency activities and operations. These are:

a. "The Agency has released massive amounts of information into the public domain during the past two years. These releases have resulted in concern and loss of confidence by certain foreign liaison and private American sources in the Agency's ability to protect the confidentiality of relationships with the Agency."

b. "There is a basic anomaly in making information about a nation's clandestine intelligence organization public. No other nation does this and it is inherently destructive to the long term maintenance of this country's foreign intelligence effort."

Further, we concluded that it was very difficult for the Agency to assess the impact of these releases, partly because of the manner in which the Agency keeps its records on public releases. A fuller discussion of our conclusions is contained in our report to the DDCI, a copy of which was sent to you on 7 October 1977 (IG 77-2165).

2. I believe that the public interest in preventing abuses or illegalities that may be committed by U.S. intelligence organizations is adequately served by the elaborate oversight mechanisms that have been established in the Agency, the Intelligence Community, the White House, and in Congress; by the ability of the courts and Congressional investigating committees to have access to any and all information they require; by the restrictions

on intelligence activities that have been issued; and by the sensitivity of all concerned to the need to guard against illegal or improper activities. There is not, therefore, a compelling need for FOIA to serve an oversight function. The disadvantages to the national security of applying the FOIA to intelligence agencies, for the reasons cited above, clearly outweigh any merit that may be claimed for public release of information of the kind now required by the FOIA.

3. While I would prefer to see CIA entirely exempted from the FOIA, I believe that there is room within the scope of the present law for the Agency to tighten its practices on information releases relating to intelligence sources and methods and classified information under the provisions of FOIA Exemptions (b)(1) and (b)(3). I recommend, therefore, that amendatory language be drafted which will expand and further clarify these exemptions as they apply to the Intelligence Community.

John H. Waller